

# **EXHIBIT E**

**Equal Employment Opportunity Commission  
v.  
Freeman**

**Case No. 8:09-CV-02573-RWT**

**Expert Report  
(Amended)**



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July 26, 2012

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## Overview

Freeman Co. uses a range of background reports to screen job applicants. The Equal Employment Opportunity Commission (EEOC) alleges that the use of credit history checks and/or criminal background checks adversely affects employment opportunities for members of several protected groups, including African American and Hispanic applicants and male applicants. In particular, it is alleged that the use of credit checks has adverse effects in the employment opportunities of African American applicants and that the use of criminal background checks has adverse effects in the employment opportunities of African American, Hispanic and Male applicants.

The Landy Litigation Support Group (LLSG) was initially retained by the EEOC to assist in *Equal Employment Opportunity Commission v. Freeman*. In particular, LLSG was asked to review scientific, managerial and professional literature to determine what is known about the likely adverse impact and the job-relatedness of criminal and credit background checks. LLSG was also asked to assist EEOC in reviewing employment data and case documents and in evaluating potential justifications offered by Freeman for using these background checks. Kevin Murphy left LLSG in early 2012 and joined Lamorinda Consulting in March of that year. Staff from LLSG and Lamorinda Consulting worked cooperatively, under Dr. Murphy's direction, to assist EEOC in this matter.

My review of relevant documents, data, and professional and scientific literature (materials reviewed in preparing this report are presented in Appendix A) shows that there is clear evidence that the use of credit reports in screening applicants has adverse impact on the employment opportunities of African American applicants and that the use of criminal background reports in screening applicants has an adverse impact on the employment opportunities of African American and male applicants. My review of the relevant scientific and professional literature also shows that both types of background checks yield unreliable information that can be expected in most settings to have adverse impact on precisely the groups studied here. Furthermore, a detailed review of the scientific studies that have been done on the validity and job-relatedness of information obtained from credit and criminal background checks shows that there is little or no evidence that either credit checks or criminal background checks have any value for predicting the performance, suitability or effectiveness of employees when they are employed in the broad-brush manner that characterizes Freeman's policy for using this background information in screening job applicants.

## Expert Qualifications

Kevin Murphy is a Consulting Expert at Lamorinda Consulting LLC and an Affiliate Faculty member in the Department of Psychology at Colorado State University. He previously served as CEO and Senior Testifying Expert for the Landy Litigation Support Group. He earned his Ph.D. from Penn State in 1979, has served on the faculties of Rice University, New York University, and Colorado State University, and has had visiting appointments at the University of California, Berkeley and the University of Limerick. He has also been a Fulbright Scholar at the University of Stockholm, and is a Fellow of the American Psychological Association, the Society for Industrial and Organizational Psychology and the American Psychological Society. He is the recipient of the Society for Industrial and Organizational Psychology's 2004 Distinguished Scientific Contribution Award.

Dr. Murphy served as President of the Society for Industrial and Organizational Psychology (1997-98), and as Associate Editor, then Editor of *Journal of Applied Psychology* (1991-2002) and Editor of *Industrial and Organizational Psychology: Perspectives on Science and Practice* (2012-present). He has served as a member of the editorial boards of *Human Performance*, *Personnel Psychology*, *Human Resource Management Review*, *International Journal of Management Reviews*, *Journal of Industrial Psychology* and *International Journal of Selection and Assessment*. He served as a Member and Chair of the Department of Defense Advisory Committee on Military Personnel Testing, and has also served on four National Academy of Sciences committees, most recently the Committee to Review the Scientific Evidence on the Polygraph. He has served as an expert witness (for both Plaintiffs and Defendants) in over 25 cases involving age, race and sex discrimination.

Dr. Murphy is the author of over one hundred and sixty articles and book chapters, and author or editor of eleven books, in areas ranging from psychometrics and statistical analysis to individual differences, performance assessment, gender, and honesty in the workplace. Dr. Murphy's main areas of research include personnel selection and placement, performance appraisal, and psychological measurement. His current research focuses on understanding the validation process. Dr. Murphy's vita is presented in Appendix B.

## Case Background

Freeman Co., headquartered in Dallas, Texas, is a provider of services for marketing events such as expositions, conventions, and trade shows. Examples of the services Freeman provides include event design and planning, content development, logistics and on-site coordination, transportation and installation, audio/visual and translation support, exhibit rental, staging, and measurement services. Freeman has 40 offices in North America and employs 3,900 people full-time and 29,000 people part-time. Freeman employs people in the following areas:

- Accounting/Finance/Payroll/Purchasing
- Administrative
- Audio/Visual
- Customer Service
- Design/Drafting/Graphics
- Executive/General Management
- HR/Training
- Information Services
- Marketing
- Operations/Warehouse/Transportation
- Project Management
- Sales Account Management

### Use of Background Checks in Screening Job Applicants

Freeman instituted a pre-employment background check process in 2001, initially conducting background checks after a conditional job offer was made. In 2007, a modification was implemented allowing managers to conduct background checks on the top 2-3 candidates rather than conducting background checks only after a conditional offer to employment (Policies and Procedures Number 100: Background Checks: 7/20/06). Pre-screening includes passing a pre-employment drug screen as well as a criminal background check for all jobs. Credit checks are conducted for a subset of jobs. Criteria for 'no hire' were developed in 2001 and did not change until 2006, when there were minor adjustments in the credit check criteria (B. Rynas May 31, 2008 response to request for additional information (Freeman document FM006494). In August of 2011, Freeman discontinued the credit checks. The Freeman policy prior to August 2011 is described below:

1. Once a candidate accepts a contingent offer (see 2007 modification above), the Manager of the operating unit that is hiring is notified to process a background check. Background checks require 5 business days or more. Candidates may not begin employment at Freeman until results have been reviewed and each candidate has been cleared.
2. All candidates receive a background check, with the exception of union employees and some part-time employees (those hired for less than 14 days within a calendar year).

3. Candidates are advised of their opportunity to review a copy of their credit report. Candidates who are advised that Freeman will take adverse action are granted 3-5 days to contest unfavorable credit information with Pre-Screen America (vendor), as required by the Fair Credit Reporting Act.
4. There are three levels of background check:
  - (i) criminal history and SSN verification – general employees,
  - (ii) criminal history, SSN verification and credit history – all credit-sensitive positions [positions that deal directly with money, client accounts and positions with direct access to client account information – 100 different positions – Rynas 5/31/08 letter],
  - (iii) criminal history, SSN verification, credit history and educational/certification authentication – Company Officers, General Managers, Department Heads [background check levels by job title are listed in Appendix C].
    - i. In addition, a motor vehicle report is required if a candidate will be a driver, receive car allowance, drive on company business or rent a car for business travel.
5. Criminal background check - candidates are not eligible for hire in any job if they have been convicted of, pled guilty, no contest or nolo contendere to *any* of 24 categories of offense including:
  - violent activity
  - assault
  - battery
  - resisting arrest
  - murder
  - manslaughter
  - rape
  - domestic violence
  - weapons conviction
  - kidnapping
  - lewd/lascivious acts
  - exposing oneself in public
  - conspiracy
  - inflicting corporal injury
  - vandalism
  - hit and run
  - breaking/entering
  - malicious destruction
  - cruelty
  - any felony or criminal record with pending disposition or outstanding warrant
  - drug charges greater than misdemeanor in last 7 years
  - more than one misdemeanor drug charge in last 7 years
  - job-relevant misdemeanor in last 7 years, or
  - job relevant convictions beyond 7 years

6. Credit check– candidates in the 100 jobs that require credit checks are not eligible for hire if they have:
  - more than two accounts of \$300 or more that are currently 90 days past due
  - more than three collection accounts (not medically related)
  - more than two paid charge-offs in last 12 months
  - repossession of car in last 3 years
  - repossession of house (foreclosure) in last 3 years
  - filed for bankruptcy in last 7 years (in conjunction with other [unnamed] factors)
  - defaulted student loans, judgments in last 7 years
  - unsatisfied liens
  - satisfied liens in last 3 years, or
  - delinquent child support
7. Motor Vehicle records, Education, employment, professional license, SSN verification and reference checks were also used in some jobs: SSN and reference checks are conducted for all jobs.

The Equal Employment Opportunity Commission alleges that the use of the screens described above, in particular criminal background checks and credit checks, has adverse impact on the employment opportunities of African American, Hispanic and male job applicants. I conducted detailed analyses to determine whether there is evidence of systematic adverse impact. I also reviewed relevant scientific and professional research to determine what is known about the reliability, validity, job relatedness, accuracy, and adverse impact of the use of criminal background checks and credit checks in screening job applicants.



## Data Preparation and Analysis

A large number of data files (listed in Appendix A) were received in discovery, many of which included redundant information. We used this redundancy to merge and cross check files to create a master data file of applicants whose criminal and or/credit check outcomes were known and whose race/ethnicity and/or gender could be established.

Our final consolidated data file included information on 58,892 applicants. The demographic characteristics of these applicants are presented in Table 1.

**Table 1: Demographic Breakdown of Applicants**

	N	%
<b>Gender</b>		
Male	27151	47.9
Female	29550	52.1
Unknown	2191	
<b>Race/Ethnicity</b>		
African American	12158	22.7
Asian	2760	5.2
Hispanic	6555	12.3
Pacific Islander	285	0.5
Native American	263	0.5
White	31478	58.8
Unknown	5393	

We were able to verify the outcomes of credit and criminal background checks for a subset of these 58,892 applicants whose background checks were run and reported. The outcomes of criminal and credit background checks are provided in Table 2.

**Table 2: Outcomes of Criminal and Credit Background Checks**

	N	%
<b>Criminal</b>		
Passed	1061	96.5
Failed	39	3.5
Total	1100	
 <b>Credit</b>		
Passed	1054	90.1
Failed	116	9.9
Total	1170	

As Table 2 shows, the likelihood of failing either a criminal background check or a credit check is low. Fewer than 4% of the applicants whose criminal background check outcomes are known failed this screen. Fewer than 10% of the applicants whose credit check outcomes are known failed this screen.

The likelihood of failing a credit or a criminal background check appeared to vary as a function of gender and race/ethnicity. Failure rates as a function of gender and race/ethnicity are presented in Table 3.

**Table 3: Outcomes of Criminal and Credit Background Checks by Gender and Race/Ethnicity**

<b>Criminal</b>	<b>Pass</b>	<b>Fail</b>	<b>Percent Failing</b>
<b>Gender</b>			
Male	722	36	4.7
Female	336	1	0.3
<b>Race/Ethnicity</b>			
African American	159	12	7.0
Asian	40	0	0.0
Hispanic	154	4	2.5
Pacific Islander	5	0	0.0
Native American	1	0	0.0
White	608	15	2.4

**Table 3 Outcomes of Criminal and Credit Background Checks by Gender and Race/Ethnicity (cont.)**

<b>Credit</b>	<b>Pass</b>	<b>Fail</b>	<b>Percent Failing</b>
<b>Gender</b>			
Male	397	53	11.8
Female	650	68	9.5
<b>Race/Ethnicity</b>			
African American	97	30	23.6
Asian	42	0	0.0
Hispanic	83	8	8.7
Pacific Islander	6	0	0.0
Native American	3	0	0.0
White	666	29	4.2

To determine whether the differences in failure rates were statistically reliable, we compared the expected and observed failure rates of: (1) males vs. females (criminal background checks only), (2) African Americans vs. Whites (criminal background and credit checks), and (3) Hispanics vs. Whites (criminal background checks only).

Table 4 displays a comparison of expected and observed outcomes of criminal background checks, comparing males and females. Both chi squared tests and binary logistic regression were used to evaluate the statistical significance and the size of the differences in passing rates. First, this table reports observed and expected frequencies of passing vs. failing. Expected frequencies represent the rates of passing and failing that would be expected if there were no differences between groups. A comparison of expected and observed frequencies can be used to describe the shortfall in passing rates associated with group differences.

Next this table reports both chi square and Fischer's exact probability test results. When the probability of an observed outcome is .05 or less (given the hypothesis that there are no differences between groups), that difference is generally accepted in the scientific and professional community as statistically significant.

Finally, this table reports three measures of the size of the difference between groups, the contingency coefficient, the Nagelkerke R squared, and the odds ratio. The contingency coefficient is a measure of the relationship between group membership and the outcome of the criminal or credit check. Values of .10 or larger are taken to represent effects that are substantively meaningful (Murphy, Myers & Wolach, 2009). The Nagelkerke R squared is an

index of the proportion of the variance in the outcomes of criminal or credit checks that can be accounted for by gender. Values of .01 or higher are taken to represent effects that are substantively meaningful (Murphy et al., 2009). The odds ratio provides a comparison of failure rates across groups.

As Table 4 illustrates, there are significant male-female differences in the likelihood of failing a criminal background check. Both the chi squared and the Fischer's exact statistics show that the likelihood of finding differences as large as those observed here in the likelihood of passing a criminal background check in a gender-neutral system is less than 1 in 1,000. The contingency coefficient and Nagelkerke R squared show that these differences are large enough to be meaningful. The odds ratio shows that the likelihood that a male will fail a criminal background check is over sixteen times as large as the likelihood that a female will fail this same criminal background check.

**Table 4: Statistical Tests of Male-Female Differences in Outcomes of Criminal Background Checks**

<b>Criminal</b>	<b>Pass</b>	<b>Fail</b>	<b>Percent Failing</b>
Male	722 (732.4)	36 (25.6)	4.7
Female	336 (325.6)	1 (11.4)	0.3

*Note.* Expected frequencies are shown in parentheses

$\chi^2(1) = 14.16, p < .001$

Fischer's exact probability < .001

Contingency coefficient = .113

Nagelkerke R squared = .071

Odds ratio = 16.75

### **Conclusions Regarding Male-Female Differences**

1. The use of criminal background checks in screening among job applicants has a significant and meaningful adverse effect on the employment opportunities of male applicants at Freeman. Male applicants are over sixteen times more likely to fail criminal background checks than Female Applicants.

As Table 5 shows, there are significant African American-White differences in the likelihood of failing a criminal background check. Both the chi squared and the Fischer's exact statistics show that the likelihood of finding differences as large as those observed here in the likelihood of passing a criminal background check in a race-neutral system is 3 in 1,000. The

contingency coefficient and Nagelkerke R squared show that these differences are large enough to be meaningful. The odds ratio shows that the likelihood that an African American applicant will fail a criminal background check is over three times as large as the likelihood that a White Applicant will fail this same criminal background check.

**Table 5: Statistical Tests of African American-White Differences in Outcomes of Criminal and Credit Background Checks**

<b>Criminal</b>	<b>Pass</b>	<b>Fail</b>	<b>Percent Failing</b>
African American	159 (165.2)	12 (5.8)	7.0
White	608 (601.8)	15 (21.2)	2.4

*Note.* Expected frequencies are shown in parentheses

$\chi^2(1) = 8.68, p = .003$   
 Fischer's exact probability = .006  
 Contingency coefficient = .104  
 Nagelkerke R squared = .036  
 Odds ratio = 3.05

<b>Credit</b>	<b>Pass</b>	<b>Fail</b>	<b>Percent Failing</b>
African American	97 (117.9)	30 (9.1)	23.6
White	666 (645.1)	29 (49.9)	4.2

*Note.* Expected frequencies are shown in parentheses

$\chi^2(1) = 60.96, p = .000$   
 Fischer's exact probability < .001  
 Contingency coefficient = .263  
 Nagelkerke R squared = .131  
 Odds ratio = 5.61

a – expected frequencies are shown in parentheses

As Table 5 also shows, there are significant African American-White differences in the likelihood of failing a credit check. Both the chi squared and the Fischer's exact statistics show that the likelihood of finding differences as large as those observed here in the likelihood of passing a credit check in a race-neutral system is 1 in 1,000. The contingency coefficient and Nagelkerke R squared show that these differences are large enough to be meaningful. The odds ratio shows that the likelihood that an African American applicant will fail a credit check is over five times as large as the likelihood that a White Applicant will fail this same credit background

check.

### Conclusions Regarding African American - White Differences

1. The use of criminal background checks in screening among job applicants has a significant and meaningful adverse effect on the employment opportunities of African American applicants at Freeman. African American applicants are over three times more likely to fail criminal background checks than White Applicants.
2. The use of credit checks in screening among job applicants has a significant and meaningful adverse effect on the employment opportunities of African American applicants at Freeman. African American applicants are over five times more likely to fail credit checks than White Applicants.

As Table 6 shows, there are no significant or meaningful Hispanic-White differences in the likelihood of failing a criminal background check. Neither the chi squared nor Fischer's exact statistics approach the levels required for statistical significance. The contingency coefficient, Nagelkerke R squared and odds ratio all show that Hispanic-White differences in the likelihood of failing criminal background checks are not large enough to be regarded as substantive.

**Table 6: Statistical Tests of Hispanic-White Differences in Outcomes of Criminal Background Checks**

<b>Criminal</b>	<b>Pass</b>	<b>Fail</b>	<b>Percent Failing</b>
Hispanic	154 (154.2)	4 (3.8)	2.5
White	608 (607.8)	15 (15.2)	2.4

*Note.* Expected frequencies are shown in parentheses

$\chi^2(1) = .008$ ,  $p = .928$

Fischer's exact probability = 1.00

Contingency coefficient = .003

Nagelkerke R squared = .000

Odds ratio = 1.05

a – expected frequencies are shown in parentheses

### **Conclusions Regarding Hispanic - White Differences**

1. The use of criminal background checks in screening among job applicants has no significant or meaningful adverse effect on the employment opportunities of Hispanic applicants at Freeman.

## **Research Literature**

My study of Freeman job applicants shows that the use of credit reports in screening applicants has adverse impact on the employment opportunities of African American applicants and that the use of criminal background reports in screening applicants has an adverse impact on the employment opportunities of African American and male applicants. Both the scientific and professional literature include published studies on the reliability, validity, relevance, and adverse impact of criminal background checks and credit checks. My review of this literature led to a number of conclusions, laid out below.

There are well-documented standards for evaluating the reliability and validity of tests and screening devices (American Psychological Association, 1999; Society for Industrial and Organizational Psychology, 2003). The most widely-used method for validating a screening test such as a criminal background check or a credit check is to assemble evidence that the individuals who fail these screens are systematically more likely to perform poorly, or to violate organizational policies, or to prove ineffective in their jobs than individuals who pass these screens. The research reviewed below presents little if any evidence that these standards for validation have been met by either criminal background checks or credit checks. Simply put, there is little evidence that individuals who fail these screening checks perform worse, or are more likely to violate organizational policies than individuals who pass these screens.

### **Validity of Criminal and Credit Checks as Measures for Screening Job Applicants**

Many employers appear to assume that job candidates who have a history of criminal involvement and/or a poor credit history will be worse employees than employees without these background characteristics. However, numerous authors have noted that there is virtually no evidence to support this assumption (see, for example, Concepcion, 2010; Desmond, 2010; Gallagher, 2006; Jones & Terris, 1991b; Klein, Moore & Moss, 2007; Kuhn & Neilsen, 2008; Nielsen & Kuhn, 2009). Background checks are widely used to screen out candidates deemed to present unacceptable risks (Society for Human Resource Management, 2010), and the widespread use of a screening criterion with dubious validity is potentially problematic.

There appear to be only a handful of peer-reviewed studies that have directly examined the validity of credit history information or criminal background information as a predictor of organizationally relevant criteria. The most comprehensive studies of the validity of credit history as a criterion for making employment decisions have been presented by Palmer and Koppes (2003, 2004), who concluded that credit history data have no validity for predicting employee performance measures (Palmer & Koppes, 2003, p.6) and that no published empirical evidence for the criterion validity of credit history exists (Palmer & Koppes, 2004, p.6). Oppler, Lyons, Ricks and Oppler (2008) did present evidence that employees with self-reported financial history concerns were somewhat more likely to engage in counterproductive work behaviors than those without financial concerns, but the correlation between financial concerns and counterproductive behavior measures was small.

In one of the few studies to present evidence of a systematic relationship between credit scores (FICO) and measures of personality and job performance, Berneth, Taylor, Walker and Whitman (2011) suggested that credit scores (FICO scores) are positively related to assessments of job performance.<sup>1</sup> However, their sample consisted of University employees and alumni in a range of jobs; in this sample, the average credit score was relatively high, and fewer than 15% of the sample showed FICO scores that would be classified as poor or lower. The reported correlation between FICO score and performance is difficult to interpret, because of the relatively small number of subjects showing poor credit scores and because of the diversity of jobs. This study does not present evidence that individuals with low credit scores present an undue risk.

Contrary to the authors' expectations, credit scores were unrelated to measures of production deviance and aggression. They also reported a puzzling pattern of relationships with personality measures, suggesting that individuals with higher FICO scores are more likely to be conscientious, but also more likely to be emotionally unstable and disagreeable.

Aamodt presented testimony to the Equal Employment Opportunity Commission on October 20, 2010 in which he indicated that credit history information is correlated (albeit weakly) with a number of criteria. He presented a meta-analysis of the results of 10 studies examining the relationships between financial problems and organizationally relevant criteria. His results are presented in Table 7.

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<sup>1</sup> The employer in this case does not receive or use FICO scores



**Table 7: Aamodt Meta-Analysis Results**

Criterion	K	N	r	90% Confidence Interval		SE%
				Lower	Upper	
Work problems	10	7,464	0.149	0.12	0.17	57.24%
Discipline	5	5,946	0.131	0.11	0.15	100%
Absenteeism	6	1,678	0.211	0.17	0.25	100%
Performance ratings	3	561	0.069	-0.03	0.17	48.01%
K = number of studies, N = total sample size, r = sample-size weighted uncorrected average correlation, SE% = percent of variability that can be explained in terms of sampling error						

The results presented in Table 7 suggest that there are significant but small correlations between financial problems and work problems, discipline and absenteeism. The correlation between performance ratings and financial problems is so small that it is not significantly different from zero. When the studies summarized in this table are examined in detail, it is apparent that these findings provide no real support for the assertion that the results of credit checks are in any way related to organizationally-relevant criteria such as performance, discipline, or work problems.

Table 8 summarizes the samples and measures in the studies analyzed by Aamodt (2010). Aamodt (2010) quite appropriately noted in his testimony that five of the studies cited in his analysis relied entirely on self-report measures of financial problems, and thus are at most obliquely relevant in assessing the validity of credit checks. A close analysis of these studies suggests that his results are of even more limited relevance than his testimony suggests. *Every* one of the studies Aamodt relied on in his testimony used self-report measures as predictors (e.g., self-reported financial strain), criteria (e.g., self-reports of absenteeism) or both. To our knowledge, there are *no* studies that show that the results of a credit check are in fact related to actual theft, absenteeism, job performance, etc. Aamodt's analysis highlights the weakness of the evidence supporting any link between credit histories and performance, absenteeism or other relevant criteria. All of the studies he cited rely on indirect measures whose relationships to actual credit history, actual performance, etc. are not well established (Murphy, 2008a, 2008b). A demonstration of a weak relationship between proxy measures of uncertain validity tells us virtually nothing about the relationships between the outcomes of credit checks and

organizationally relevant criteria.

**Table 8 : Studies Cited in Aamodt Meta-Analysis**

**Bagwell & Kim (2003)**

- Measures: survey by mail; self-reported measures of financial stress, health, and absenteeism
- Sample: 262 clients who called national credit counseling organization and committed to a debt management plan
- Results: Financial stress associated with absenteeism; financially stressed workers less productive at work (self-report only)

**Bailey, Woodiel, Turner, Young (1998)**

- Measures: Coping and Stress Profile questionnaire (greater than 350 items). Self reported measures of Personal Stress, Financial Stress, Personal Satisfaction, Work Satisfaction. Financial stress measured by two sets of items, including:
  - Personal stress caused by concerns over issues of financial well being (inadequate income, disagreement over spending, lack of savings)
  - Employment related financial stress (payment policy, salary/benefit problems, fairly compensated)
- Sample: 187 employed mental health professionals
- Results: Personal financial stress correlated with personal stress. Work financial stress correlated with work stress scores, including work productivity ( $r=.178$ ).

**Brennan, Rostow, & Davis (2009)**

- Measures: M-PULSE structured questionnaire and interview (past psychological events, military history, arrests and convictions, personal habits) and follow up supervisory questionnaire
- Sample: 2965 law enforcement candidates
- Results:
  - “The only factor found to be statistically significantly correlated with job termination was a history of non-felony criminal offenses ( $r=.077$ ,  $p<.05$ )”
  - Bad credit correlated with job termination ( $r=.133$ ,  $p<.01$ ), but not with job termination for cause

**Chang, Johnson, & Yang (2007)**

- Measures: Meta-analysis of studies investigating emotional strain and organizational citizenship behaviors
- Sample: 29 studies
- Results: emotional strain has significant, negative relationship with OCB ( $-.16$ )
- NOTE: No indication emotional strain had anything to do with financial stress or credit history, and no indication OCB was also related to work productivity

**Table 8 (Cont.)**

**Hendrix, Steel, & Schultz (1987)**

- Measures: Employee absenteeism rates and individual performance measures; health assessment survey
- Sample: 463 US Department of Defense employees
- Results: absenteeism indirectly affected by job and life stress through their effects on level of somatic symptoms and frequency of cold/flu episodes
- NOTE: Single item on health promotion survey relating to “financial problems”

**Hurtz & Donovan (2000)**

- Measures: Meta-analysis of studies investigating personality and job performance
- Sample: 26 studies
- Results: Estimated true score correlations on measures of Big Five and performance criteria range from .07 to .22; with highest validity for Conscientiousness.
- NOTE: No measures of credit history/financial stress included

**Joo (1998)**

- Measures: Questionnaire measuring personal financial wellness, financial stressors, productivity, desired workplace financial education programs, and demographics
- Sample: 271 clerical employees
- Results: Those with higher levels of financial wellness reporting having higher performance ratings, less absenteeism, and less work time used for personal financial matters (self-report only).

**Kim & Garman (2003)**

- Measures: Mail survey – self reported measures of financial stress, organizational commitment, health, and absenteeism
- Sample: 262 employees of insurance company
- Results: Financial stress influenced organizational commitment and absenteeism

**Kim & Garman (2004)**

- Measures: Mail survey – self reported measures of financial stress, pay satisfaction, work time used for personal finances, and absenteeism
- Sample: 262 employees of insurance company
- Results: Significant statistical relationship between financial stress and pay satisfaction, work time use, and absenteeism

**Table 8 (cont.)**

**Kim, Sorhaindo, & Garman (2006)**

- Measures: survey by mail; self-reported measures of financial stress, absenteeism, and work time used for personal finances
- Sample: 2372 clients who called national credit counseling organization and enrolled in a debt management program
- Results: Financial stress did not add to prediction of absences, though there was a significant relationship between financial stress and days partially unable to work and work time used for personal finances

**Nielsen & Kuhn (2009)**

- Measures: Questionnaires assessing attitudes about credit history; 7-item conscientiousness scale
- Sample: 126 undergraduate students
- Results: Respondents did not believe use of credit history was fair, predictive of job performance, job related, and believed it was an invasion of privacy
- NOTE: Attitudinal beliefs about credit history only; no examination of relationship to probability of hire or job performance

**Oppler, Lyons, Ricks, & Oppler (2008)**

- Measures: Questionnaire for Public Trust Positions (two financial history items)
- Sample: 2519 federal government employees
- Results: Relationship between financial history concerns and counterproductive work behaviors = .13,  $p < .001$

**Palmer & Koppes (2003)**

- Measures: Credit history data
- Sample: 178 employees
- Results: "...only a few of the measures of credit history used for the present sample had any validity in the prediction of termination data. This number is sufficiently small that chance is probably the best explanation."

**Palmer & Koppes (2004)**

- Measures: Credit history data
- Sample: 178 employees
- Results: Credit history data did not predict performance ratings or termination

**Podsakoff, LePine, & LePine (2007)**

- Measures: Meta-analysis of studies on challenge and hindrance stressors, and employee retention criteria
- Sample: 157 studies, including 183 independent samples
- Results: Stressors had positive relationship with strain, turnover intentions, and withdrawal behavior; and negative relationship with job satisfaction and organizational commitment
- NOTE: Stressors do not include financial stress

**Table 8 (cont.)**

**Prawitz, Haynes, Garman, et al. (2010)**

- Measures: Mayo Clinic Health Risk Assessment, plus financial wellness scale
- Sample: 441 employees
- Results: Negative relationship between financial distress and self-reported absenteeism (-.260)

In addition to the lack of data supporting the validity of criminal background and credit checks as predictors of future suitability as an employee, there are broad societal-level data that provide compelling evidence of the *invalidity* of these measures. In particular, there have been substantial changes in patterns of credit history over the last several years, as a result of the global economic crisis. For example, foreclosure (one of the criteria used by Freeman in screening applicants) has become increasingly widespread in recent years. In 2010, 2.9 million properties received foreclosure filings - an increase of 2 percent from 2009 and 23 percent from 2008 (2010 Had Record 2.9 Million Foreclosures, ABC News, <http://abcnews.go.com/Business/2010-record-29-million-foreclosures/story?id=12602271>). Independent of the effects of foreclosures themselves, the economic downturn in recent years has substantially increased the likelihood that job applicants will have negative credit histories. If the hypothesis that job applicants with unfavorable credit histories are more likely to perform poorly, engage in employee theft or workplace dishonesty, be absent more often, etc., this massive upswing in unfavorable credit histories would have been accompanied by an unmistakable and alarming increase in the incidence of poor performance, theft, dishonesty, etc. across virtually all workplaces, especially those that did not screen out applicants with poor credit histories. To my knowledge, there is no reliable evidence of substantial changes in the likelihood of poor performance, workplace theft or dishonesty, or any of the other criteria that are supposedly linked to credit histories.

**Conclusion**

**There is little evidence in the scientific or professional literature supporting the validity of criminal background or credit checks as criteria for screening job applicants. To my knowledge, Freeman has presented no evidence whatsoever of the validity of the background or credit checks they conduct as criteria for screening job applicants.**

**Reliability of Credit checks and Criminal Background Checks**

Numerous authors have noted that credit reports often contain errors and inaccuracies that can lead to unwarranted denials of credit and to adverse employment outcomes (e.g., Concepcion, 2010; Desmond, 2010; Gallagher, 2006; Klein, Moore & Moss, 2007). Neilsen and

Kuhn's (2009) study suggested that the majority of credit reports that have been examined include one or more serious mistakes. A study published by the Consumer Federation of America (2002) reported that almost 40% of credit scores contained anomalies that required further review. Only 20% of the files examined showed substantially the same credit score for all three major repositories (Experian, Equifax, TransUnion). They also concluded that credit files are more likely to be missing positive information than they are to be missing derogatory information.

Criminal background information is notoriously difficult to collect and interpret, in part because it is typically spread across a wide range of jurisdictions (Jones & Terris, 1991a). Harris and Keller (2005) note that, "although state systems are improving, record accuracy and completeness continue to be the most serious problem affecting criminal history databases." A 1999 survey of 32 states and the District of Colombia found that in 14 states, final dispositions were recorded in no greater than 50% of arrests. One half of the state-submitted arrests in the FBI database have no final dispositions attached" (Harris & Keller, 2005, p.16). They also noted that criminal history records tend to be difficult for noncriminal justice agencies to decipher. This difficulty is especially acute when different jurisdictions use different terms to refer to similar offenses, or when they follow different policies for negotiating plea agreements.

To add to the complexity of criminal background reports, there is often widespread variation in the classification of particular criminal acts across jurisdictions. For example, possession of marijuana can lead to a felony conviction in some states, while being treated as a noncriminal offense in others. Jurisdictions vary in their policies regarding the use of plea bargains and other strategies for reducing the likelihood that criminal cases will be decided in court, which often results in substantial differences in the eventual charge that is applied to the same exact behavior in jurisdictions that differ in their likelihood of offering a reduction in charges in exchange for a guilty plea. As a result, the criminal record of an individual may have only a tenuous relationship to the criminal acts that were prosecuted, not to mention the criminal acts that were undetected and thus not included in an individual's record.

## **Conclusion**

**Credit checks and criminal background checks yield unreliable information.**

## Adverse Impact of Background Checks

There are well-known differences in the likelihood that Black and Hispanic candidates will have unfavorable credit histories when compared to White candidates (Arnoldy, 2007; Desmond, 2010; Federal Reserve Board, 2007; Hobbs-Wright, & Asfaw, 2010; Nielsen & Kuhn, 2009). As a result, the use of credit history information as a basis for denying employment to some job candidates is very likely to result in adverse impact in hiring decisions for both Black and Hispanic applicants (Gallagher, 2006). For example, a 2000 study by Freddie Mac examining credit histories as a function of race and ethnicity reported substantial differences in credit reports across groups. The key results of this study are presented in Table 9.

**Table 9: Results of Freddie Mac Study of Race Differences in Credit Scores**

Racial Group	Outcome of Credit Report		
	"Bad"	"Indeterminate"	"Good"
African Americans	48%	16%	36%
Hispanics	34%	15%	51%
Whites	27%	12%	61%

(From Statement of Adam T. Klein, Esq., Meeting of May 16, 2007 on Employment Testing and Screening, [www.eeoc.gov/eeoc/meetings/archive/5-16-07/klein.html](http://www.eeoc.gov/eeoc/meetings/archive/5-16-07/klein.html))

The difference in credit history measures of White, Black and Hispanic candidates is only partially explained in terms of differences in average income. Klein, Moore and Moss (2007) reported that the correlation between race and unfavorable credit information was stronger than the correlation between income and unfavorable credit scores. In particular, they reported that "... *low-wage* workers (assume \$14,000 per year, 40 weekly hours of work at \$7 per hour) have "bad" credit records at only a 13% higher rate than those earning five times as much (\$70,000 per year) – but *African Americans* have "bad" credit records at a 21% higher rate than Whites" (p.2).

Similarly, there are well-known differences in the likelihood that Black and Hispanic candidates will have unfavorable information in their criminal background checks when compared to White candidates (Harris & Keller, 2005; Holzer, Raphael, & Stoll, 2006; Levashina & Campion, 2009). Arrests and convictions will often discourage otherwise qualified individuals from even applying to certain jobs, thus magnifying the potentially discriminatory effects of differential rates of arrest and conviction across racial/ethnic groups (Harris & Keller, 2005).

Criminal backgrounds not only discourage applicants and disqualify candidates, they also have an impact on the intermediate steps in the process of securing employment. Bushway (2004) noted that Black applicants with criminal records were considerably less likely than White applicants with similar records to receive callbacks in a multi-step employment procedure.

Finally, there are likely to be interactions between criminal backgrounds and credit histories. Western, Kling and Weiman (2001) and Wheelock (2005) note that convictions and incarceration tend to have a negative impact on future income, thus increasing the likelihood

that individuals with criminal backgrounds will develop unfavorable credit histories. Thus, even when employers do not directly consider criminal background information when making employment decisions, they might indirectly discriminate against Black and Hispanic candidates if they screen out candidates whose unfavorable credit histories are a by-product of prior arrests, convictions or incarceration.

### **Conclusion**

**The use of either criminal background checks or credit checks in selection should be expected to have adverse impact against candidates on the basis of race.**

### **Population of Applicants with Unfavorable Background Information**

O'Brien & Darrow (2007) note that 20% of males in the U.S. have a criminal record (see also Blumstein & Nakamura, 2009). Almost half of these will serve time in a state or federal prison (Holzer, Raphael, & Stoll, 2006). However, there is extensive variation, as a function of race, in the proportion of males who have been incarcerated. Levashina and Campion (2009) report that 28 percent of black males, 16 percent of Hispanic males, and 4 percent of white males have served time in state or federal prisons. One implication of these figures is that employment policies that screen out candidates with criminal backgrounds can affect very large numbers of individuals.

As noted in an earlier section, the recent economic collapse has substantially increased the number of applicants whose credit history may limit their employment opportunities. A recent report suggests that over 25% of all single-family homeowners who hold mortgages owe more than the current value of their home, substantially increasing the risks of foreclosure or termination of payment (<http://zillow.mediaroom.com/index.php?s=159&item=221>). Foreclosures increased by over 25% between 2008 and 2010 (<http://abcnews.go.com/Business/2010-record-29-million-foreclosures/story?id=12602271>).

### **Conclusion**

**An increasing proportion of candidates will have unfavorable criminal and/or credit information in their backgrounds.**



**Overall Conclusions**

1. The use of criminal history background checks has adverse impact on the employment opportunities of males and African American applicants.
2. The use of credit background checks has adverse impact on the employment opportunities of African American applicants.
3. Research on the use of criminal history checks and credit checks in screening job applicants demonstrates that these checks do not predict future work behavior and do not differentiate suitable applicants from unsuitable ones. This research shows that adverse impact can reasonably be expected when these measures are used to screen applicants, but does not show any corresponding benefit to the organization.



Kevin R. Murphy

7-26-12

Date

**Statement of Compensation**

My work on this report was compensated at a rate of \$550 per hour.

## Appendix A - List of Case Materials Reviewed

### I. Scientific and Professional Literature

- a. Aamodt, M. (2010) Testimony Presented at Meeting of the Equal Employment Opportunity Commission, October 20, 2010 - Employer Use of Credit History as a Screening Tool
- b. American Psychological Association (1999) *Standards for Educational and Psychological Testing*. Washington: DC..
- c. Arnoldy, B. (January 18, 2007). The spread of the credit check as a civil rights issue. *The Christian Science Monitor*.
- d. Berneth, J.B., Taylor, S.G., Walker, H.J. & Whitman, D.S. (2011). Empirical investigation of dispositional antecedent and performance-related outcomes of credit scores. *Journal of Applied Psychology*. Prepublication release, DOI: 1039/a0026055.
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- g. Bushway, S. D. (2004). Labor market effects of permitting employer access to criminal history records. *Journal of Contemporary Criminal Justice*, 20, 276-291.
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- s. Hobbs-Wright, E., & Asfaw, D. (2010). Steer clear of disparate impact red flags. *Colorado Employment Law Letter*, 19(7).
- t. Holzer, H. J., Raphael, S., & Stoll, M. A. (2006). Perceived criminality, criminal background checks, and the racial hiring practices of employers. *Journal of Law and Economics*, 49, 451-480.
- u. Jones, J. W., & Terris, W. (1991a). Integrity testing for personnel selection: An overview. *Forensic Reports*, 4, 117-140.
- v. Jones, J. W., & Terris, W. (1991b). Selection alternatives to the preemployment polygraph. In J. W. Jones (Ed.), *Preemployment Honesty Testing: Current Research and Future Directions* (pp.39-52). New York: Quorum Books.
- w. Klein, A T., Moore R., & Moss, S. A. (2007). Employer credit-history checks and criminal record checks of job applicants for hiring decisions: The illegality under Title VII disparate impact doctrine.  
[http://www.outtengolden.com/files/Klein\\_EEOC\\_Testimony\\_final.pdf](http://www.outtengolden.com/files/Klein_EEOC_Testimony_final.pdf)
- x. Kuhn, K. M., & Nielsen, M. L. (2008). Understanding applicant reactions to credit checks: Uncertainty, information effects and individual differences. *International Journal of Selection and Assessment*, 16, 307-320.
- y. Kurlychek, M. C., Brame, R., & Bushway, S. D. (2006). Scarlet letters and recidivism:
- z. Does an old criminal record predict future offending? *Criminology and Public Policy*, 5, 483-504.
- aa. Kurlychek, M. C., Brame, R., & Bushway, S. D. (2007). Enduring risk? Old criminal records and predictions of future criminal involvement. *Crime & Delinquency*, 53, 64-83.
- bb. Levashina, J., & Campion, M. A. (2009). Expected practices in background checking: Review of the human resource management literature. *Employee Responsibility & Rights Journal*, 21, 231-249.
- cc. McDaniel, M. A. (1989). Biographical constructs for predicting employee suitability. *Journal of Applied Psychology*, 74, 964-970.
- dd. Murphy, K.R. (2008a). Explaining the weak relationship between job performance and ratings of job performance. *Industrial and Organizational Psychology: Perspectives on Science and Practice*, 1, 148-160.
- ee. Murphy, K.R. (2008b). Perspectives on the relationship between job performance and ratings of job Performance. *Industrial and Organizational Psychology: Perspectives on Science and Practice*, 1, 197-205.
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- pp. Western, B., Kling, J. R., & Weiman, D. F. (2001). The labor market consequences of incarceration. *Crime & Delinquency*, 47, 410-427.
- qq. Wheelock, D. (2005). Collateral consequences and racial inequality. *Journal of Contemporary Criminal Justice*, 21, 82-90.
- rr. Wisconsin AB-367. State of Wisconsin 2009-2010 Legislature. LRB-1752/1.

## II. Legal Documents

- a. Complaint, 9/30/09
- b. Answer of Freeman, 11/30/09
- c. Order, 5/12/10
- d. Plaintiff EEOC's First Request for Production of Documents to Defendant, 6/1/10
- e. Plaintiff EEOC's First Set of Interrogatories to Defendant, 6/1/10
- f. Defendant Freeman's First Request for Production of Documents to the Plaintiff EEOC, 6/21/10
- g. Defendant Freeman's First Set of Interrogatories to Plaintiff EEOC, 6/22/10
  - i. Exhibit A: Freeman Policies and Procedures Number: 100. Title: Background Checks, 7/20/06
  - ii. Exhibit B: Freeman Job Description: Laborer – Warehouse, 12/4/08
  - iii. Exhibit C: AVW Audio Visual, Inc. Job Description: Accounting Clerk
  - iv. Exhibit D: AVW-TELAV Job Description: Audio Visual Technician
  - v. Exhibit E: Freeman Job Description: Account Executive, 10/23/07

- vi. Exhibit F: Freeman Job Description: Representative – Exhibitor Services, 8/11/08
- h. Defendant Freeman's Response to Plaintiff EEOC's First Request for Production of Documents to Defendant, 7/1/10
- i. Defendant Freeman's Response to Plaintiff EEOC's First Set of Interrogatories to Defendant, 7/1/10
- j. Scheduling Order, 6/28/11
- k. Subpoena to Produce Documents, Information or Objects or to Permit Inspection of Premises in a Civil Action, 9/1/11
- l. Defendant Freeman's Supplemental Response to EEOC's Interrogatory No. 9, 1/24/12
- m. Defendant Freeman's Supplemental Response to Plaintiff EEOC's Interrogatory No. 25 to Defendant
- n. Defendant Freeman's Second Supplemental Response to Plaintiff EEOC's Interrogatory No. 25 as it Pertains to the Criminal Class
- o. Defendant Freeman's Second Supplemental Response to Plaintiff EEOC's Interrogatory No. 25 as it Pertains to the Credit Class
- p. Defendant Freeman's First Requests for Admissions Directed to to Plaintiff EEOC

### **III. Company Documents**

- a. Response to EEOC Charge Number 846-2008-25677C
  - i. Freeman Employee Handbook, page 17
  - ii. Freeman Employee Application
  - iii. Drug Screen Results
  - iv. Background Check Policy
  - v. Job Titles and Levels
  - vi. Job Descriptions
    - 1. VP, National Sales Group – Branch Exposition Sales, 12/5/07
    - 2. SAP Operations Manager/Corporate SAP Operations Manager, 3/7/08
    - 3. Information Services/Technology Specialist, 10/15/04
    - 4. Purchasing Agent, 10/15/04
    - 5. Sales Manager, 10/23/07
    - 6. Exhibitor Services Representative, 10/15/04
    - 7. Accounts Payable Clerk, 10/15/04
- b. Emails between Freeman Corporation and PreScreen America
- c. Freeman Fax Request
- d. Freeman ACH Authorization form (multiple)
- e. Freeman Aging Statement Request form (multiple)
- f. Authorization of Release/Verification of Information (Spanish form)
- g. Authorization to Release Information
- h. Branch Addresses
- i. Case Declining Offer (Levesque)
- j. Documentation of Training Requirements under the Fair Credit Reporting Act
  - i. Bonnie Beaver
  - ii. Jackie Evans

- iii. Holly Tate
- iv. Stephanie Sarmiento
- v. Dawnn Repp
- k. PSA Service Agreement
- l. Client Lists
- m. Corporate Change of Address
- n. PSA Contact Lists
- o. Draft proposal for pre-employment screening services
- p. Emails related to implementing pre-employment screening services
- q. Freeman billing codes
- r. Freeman Corporation On Time Report
- s. Freeman Requests on 2/16/2001
- t. Standards for Pre-Employment Screening
- u. List of State Laws pertaining to pre-employment screening
- v. Order Form and notes
- w. Memo to Patti Cole from Garrett McDowell, 9/6/01, regarding on time reports for the FCAN region
- x. Freeman Notice of Adverse Action form
- y. On Time Report 2006
- z. Freeman Companies Branch Addresses
- aa. Identified Standards for Pre-Employment Screening by Industry
- bb. Invoice for SHRM 2007 Annual Conference and Expo
- cc. Standard Report 2/21/01
- dd. Status Summary
- ee. Working with Administrative Agencies
- ff. Defendant's Responses to Request for Production, including Document Request Nos. 1, 2, 3, 4, 5, 6, 12, 13, 14, 15, and 20 (Bates FM006208-6622)
- gg. Kenexa Applicant Flow Log reports (January 1, 2007 through May 2, 2011) (Bates FM00006628 – 6631)
- hh. Open Hire Applicant Flow Log report (April to August 2011) (Bates FM00006632)
- ii. Kenexa Job Postings File (Bates FM268877)
- jj. Applicant Resumes (FM296879 – 301113)
- kk. EEO Data Sheets, Applicant Flow Logs, Employee Snapshots, Quarterly Wage Report (FM301114 – 307812)
- ll. Personnel Files (FM027941 – 032740; FM339538)
- mm. Request for Proposal (FM032741 – 032863)
- nn. Freeman Job Postings and Applicant Flow Logs (FM0006633 – 006657)
- oo. Applications for Employment (FM0006923 – 027940)
- pp. Employment applications, applicant flow logs, adverse action letters and employment documents (FM335057, 5101, 5104, 5106, 5124, 5142, 5144, 5188, 5190, 5200, 5224, 5226, 5228, 5230, 5233, 5235, 5237, 5239, 5255, 5262, 5264, 5271, 5278, 5279, 5284, 5287, 5289, 5295, 5300, 5305, 5311, 5318, 5324, 5331, 5335, 5343, 5350, 5356, 5359, 5366, 5379, 5372, 5378, 5384, 5386, 5392, 5296, 5399, 5406, 5411, 5415, 5417, 5423, 5429, 5431, 5435, 5439, 5442, 5448, 5454, 5460, 5470, 5479, 5489, 5505, 5519, 5532, 5539, 5571, 5580, 5592, 5607, 5617, 5629, 5642, 5650, 5657, 5664, 5677, 5687, 5694, 5706, 5718, 5722, 5725, 5733, 5740, 5753, 5761, 5765, 5772, 5780, 5790, 5799, 5803, 5811, 5819, 5821, 5842, 5869, 5878, 5886, 5896, 5905, 5914, 5922, 5825, 5942, 5952, 5959, 5971, 5980,

5982, 5992, 6002, 6005, 6016, 6021, 6033, 6044, 6051, 6061, 6073, 6083, 6093, 6096, 6106, 6115, 6123, 6134, 6142, 6145, 60148, 6152, 6155, 6158, 6161, 6162, 6175, 6178, 6182, 6187, 6189, 6199, 6206, 6209, 6222, 6231, 6234, 6237, 6250, 6254, 6262, 6271, 6285, 6296, 6306, 6309, 6318, 6330, 6332, 6340, 6348, 6351, 6361, 6369, 6379, 6387, 6389, 6408, 6416, 6428, 6438, 6452, 6459, 6468, 6471, 6477, 6480, 6483, 6486, 6496, 6499, 6508, 6517, 6520, 6528, 6529, 6536, 6544, 6551, 6564, 6575, 6583, 6588, 6599, 6605, 6616, 6624, 6626, 6629, 6639, 6642, 6645, 6653, 6665, 6676, 6687, 6696, 6708, 6714, 6726, 6729, 6733, 6736, 6738, 6741, 6751, 6759, 6761, 6769, 6778, 6787, 6707, 6805, 6808, 6820, 6828, 6831, 6834, 6841, 6849, 6852, 6855, 6863, 6865, 6868, 6868, 6871, 6882, 6892, 6895, 6901, 6905, 6909, 6912, 6922, 6936, 6944, 6947, 6950, 6952, 6955, 6965, 6975, 6986, 7003, 7012, 7015, 7023, 7026, 7034, 7043, 7050, 7053, 7057, 7061, 7065, 7068, 7070, 7075, 7086, 7091, 7098, 7106, 7109, 7112, 7122, 7131, 7146, 7154, 7164, 7167, 7175, 7178, 7181, 7186, 7190, 7211, 7214, 7217, 7225, 7233, 7236, 7249, 7261, 7276, 7284, 7297, 7301, 7306, 7309, 8318, 7334, 7341, 7344, 7378, 7388, 7400, 7406, 7412, 7413, 7423, 7433, 7442, 7445, 7448, 7452, 7455, 7458, 7467, 7479, 7483, 7486, 7489, 7493, 7496, 7499, 7501, 7509, 7518, 7521, 7528, 7531, 7533, 7536, 7552, 7555, 7567, 7579, 7579, 7588, 7643, 7647, 7684, 7694, 7704, 7707, 7715, 7726, 7737, 7746, 7755, 7765, 7776, 7785, 7788, 7791, 7803, 7815, 7818, 7821, 7830, 7839, 7864, 7873, 7887, 7901, 7917, 7934, 7946, 7961, 7892, 7999, 8010, 8017, 8029, 8038, 8053, 8073, 8098, 8109, 8122, 9149, 8165, 8179, 8190, 9200, 8215, 8233, 8260, 8281, 8321, 8337, 8347, 8360, 8374, 8394, 8408, 8429, 8449, 8479, 8486, 8492, 8518, 8528, 8543, 8554, 8564, 8575, 8629, 8650, 8663, 8676, 8690, 8715, 8733, 8779, 8796, 8813, 8827, 8839, 8864, 8884, 8923, 8947, 8966, 8979, 8990, 8997, 9009, 9026, 9063, 9081, 9098, 9117, 9129, 9149, 9171, 9179, 9191, 9225, 9238, 9254, 9264, 9285, 9303, 9311, 9399-9401, 9424, 9433, 9439, 9444, 9449, 9461, 9482, 9486, 9501, 9503, 9526, 9527, 9537, 9539, 9542-9544, 9548, 9551, 9554, 9557, 9560, 9563, 9565

qq. E-mail files

- i. AJ Miller
- ii. Tim Best
- iii. D Scott
- iv. R Rosa
- v. L Schroeder

**IV. Exhibits**

- a. New Hires for Exhibitor Services, January – December 2003
- b. Preemployment Background Screening Guidelines, ASIS International
- c. Memo from Gerry Handley (Human Resources, TFC Corporate) to Don Freeman and HR Generalists re Background Checks, 11/21/00
- d. Memo from Suzanne Bragg to Freeman and AVW-TELAV (US) Regional Vice Presidents, General Managers, Office Managers and Corporate Executives re New Background Check Policy, 7/20/06
- e. Memo from Gerry Handley (Human Resources, TFC Corporate) to Company Presidents, General Managers, and Office Managers re Background Investigations, 1/19/01

- f. Fidelity Internal Information re Background Investigations
- g. FTC Facts for Business. Using Consumer Reports: What Employers Need to Know
- h. Background Screening Results: Hiring Decisions and Compliance Considerations (ADP Screening and Selection Services)
- i. AccuSource Information, including Fair Credit Reporting Act
- j. Background Check Vendor Comparisons
- k. PreScreen America Presentation
- l. Job Titles and Levels
- m. Background Check Search Levels
- n. Comparison of Credit Check Criteria Resulting in a "No Hire"
- o. Background Checks
- p. Coca-Cola Company Personnel Integrity Assurance Program Vendor's Guide
- q. Background Checks for Security-Sensitive Positions and Officers (CU-Boulder)
- r. Claremont University Consortium Background Check Policy, 10/26/05
- s. External Background Check Policy and Procedure (SHRM Template?)

**V. Applicant Files**

- a. Katrina Elaine Vaughn
  - i. Notice of Potential Adverse Action, 8/17/07
  - ii. PreScreen Plus Report
  - iii. Notice of Adverse Action, 8/30/07

**VI. Data Files and Folders**

- a. Copy of Job Titles and Levels
- b. Copy of EEOC Submission
- c. Copy of Req. 1 – Credit Screened Applicants
- d. Copy of Req. 2 – Criminal Background Screened Applicants
- e. copy of job titles and levels copy
- f. copy of req. 2-criminal background screened applicants-03.05.09 copy
- g. credit check data
- h. criminal check
- i. freeman.copy of req.1-credit screened applicants-12.05.08 copy
- j. Creditcheck
- k. Criminalcheck
- l. Eeodataforhires
- m. Hiring al PTHrs
- n. Hiring al PTHrs2
- o. New Hire Report 4-19-2010
- p. New Hire Report from SAP
- q. Time to hire in Kenexa
- r. AFKLKenexamerged
- s. App log 2007
- t. App log 2008
- u. Eeo report
- v. Production of Employee Lists



- w. FREE1.xls
- x. FREE2.xls
- y. FREEALL.xls
- z. Index.xls
- aa. Production of Employee Lists
- bb. FREE1.xls
- cc. FREE2.xls
- dd. FREEALL.xls
- ee. Index.xls
- ff. Database Files – Skyline
- gg. Copy of 2008 Data Pull- Moby E drive - Production
- hh. Copy of 2010 Fata pull - Tim's PC
- ii. Applicant Flow Logs
- jj. Background Check logs
- kk. Job Descriptions Database Files – Skyline
- ll. Applicant Flow Logs
- mm. Background Check logs
- nn. Hiring Data
- oo. Job Descriptions

**VII. PSA File Folders** (file folders contain 9,152 individual reports)

- a. FCAL
- b. FCAM
- c. FCAN
- d. FCAS
- e. FCAT
- f. FCAU
- g. FCBR
- h. FCCC
- i. FCCH
- j. FCCI
- k. FCCJ
- l. FCCO
- m. FCCP
- n. FCDA
- o. FCDD
- p. FCDE
- q. FCDL
- r. FCDM
- s. FCDT
- t. FCGP
- u. FCHO
- v. FCHU
- w. FCKE
- x. FCLA
- y. FCLS
- z. FCMV

- aa. FCNA
- bb. FCNE
- cc. FCNR
- dd. FCNW
- ee. FCOL
- ff. FCOR
- gg. FCPA
- hh. FCPH
- ii. FCSA
- jj. FCSC
- kk. FCSE
- ll. FCSF
- mm. FCSN
- nn. FCSP
- oo. FCWA

**VIII. Depositions and Exhibits**

- a. Sandra Y. Alvarez, 3/2/12
- b. Suzanne Bragg, 2/8/12
- c. Jasmine Brown, 2/23/12
- d. Mychael Dwayne Butler, 2/22/12
- e. Terri Carr, 2/24/12
- f. Jacqueline Evans, 2/10/12
- g. Donald Shaw Freeman, Jr., 3/1/12
- h. Nicole Gunebra, 4/5/12
- i. Kevin Helm, 4/20/12
- j. Taneisha Hester, 3/5/12
- k. Taka Hendry, 3/21/12
- l. Shaneice Johnson, 2/28/12
- m. Natysha London, 2/21/12
- n. Jenny Luckie, 4/6/12
- o. Reginald Mason, 2/27/12
- p. Gary Miller, 3/30/12
- q. Freddie Miranda, 4/5/12
- r. Felandis Mosley, 3/30/12
- s. Denise Nevels, 3/23/12
- t. Christi Paul-Moore, 3/16/12
- u. Tamenika Shelton, 3/7/12
- v. Marjorie Singleton, 3/16/12
- w. Lewis Stewart, 3/30/12
- x. Ayonda Sullivan, 3/2/12
- y. Shalonda Nicole Tate, 2/23/12
- z. Issac Theus, 3/27/12
- aa. Monica Tolson, 3/26/12
- bb. Katrina Vaughn, 2/22/12
- cc. Pamela Wills-Ward, 2/9/12
- dd. Gwen Woodworth, 3/2/12

ee. Delvin E. Young, 2/24/12

## **Appendix B- Kevin Murphy Vita**

### **Kevin R. Murphy, PhD**

1415 Glen Eagle Court, Fort Collins, CO 80525

tel 814-769-1988

Murphy@LamorindaConsultingllc.com

### **EDUCATION**

Ph.D.	The Pennsylvania State University, 1979 Major: Industrial/Organizational Psychology Minors: Multivariate Statistics; Psychometrics
M.S.	Rensselaer Polytechnic Institute, 1976 Major: Industrial/Organizational Psychology
B.A.	Siena College, 1974 Major: Psychology

### **PROFESSIONAL EMPLOYMENT**

2011 – present	Affiliate Professor of Psychology, Pennsylvania State University
2010 – 2012	Chief Executive Officer, Landy Litigation Support Group
2008 – 2012	Senior Testifying Expert, Landy Litigation Support Group
2006 – 2011	Professor of Psychology and Information Sciences and Technology Pennsylvania State University
2006 – 2007	Director, International Center for the Study of Terrorism, Pennsylvania State University
2003 – 2006	Head, Department of Psychology, Pennsylvania State University
2002 – 2006	Professor of Psychology, Pennsylvania State University
1988 – 2000	Professor of Psychology, Colorado State University
1986 – 1988	Associate Professor of Psychology, Colorado State University
1984 – 1986	Assistant Professor of Psychology, Colorado State University
1981 – 1984	Assistant Professor of Psychology, New York University
1979 – 1981	Assistant Professor of Psychology Rice University

### **VISITING APPOINTMENTS**

2011 - present	University of Limerick, Ireland, External Examiner
1992	Visiting Scientist, Navy Personnel Research and Development Center
1991	Department of Psychology and School of Business Administration, University of California, Berkeley
1988 - 1989	Department of Personnel and Employment Relations, School of Business, University of Limerick, Ireland
1985	Visiting Scientist, Navy Personnel Research and Development Center
1977 – 1978	Department of Psychology, University of Stockholm

### **EDITORIAL POSITIONS**

2012 – present	Editor, <i>Industrial and Organizational Psychology: Perspectives on Science and Practice</i>
2011	Senior Advisory Board, <i>Encyclopedia of Industrial and Organizational Psychology</i> , (Sage)
2010 – present	Series co-Editor, <i>Applied Psychology Series</i> , Taylor & Francis
2002	Guest Editor, <i>Group and Organizational Management</i> , Special Issue: Performance Appraisal: Evolution and Change (A.Tziner, K. Murphy & J. Cleveland, Eds.)
1996 – 2002	Editor, <i>Journal of Applied Psychology</i>
1991 – 1996	Associate Editor, <i>Journal of Applied Psychology</i>

### **EDITORIAL BOARDS**

2011 – present	<i>Journal of Management</i>
2008 – present	<i>Journal of Applied Psychology</i>
2007 – present	<i>Behavioral Sciences of Terrorism and Political Aggression</i>
2007 – 2011	<i>Industrial and Organizational Psychology: Perspectives on Science and Practice</i>
2002 – present	<i>Personnel Psychology</i>
1999 – present	<i>International Journal of Management Reviews</i>
1998 – present	<i>Journal of Industrial Psychology</i>
1997 – present	<i>Human Resource Management Review</i>
1991 – present	<i>International Journal of Selection and Assessment</i>
1991 – 1993	<i>Journal of Vocational Behavior</i>

1990 – 1996	<i>Personnel Psychology</i>
1989 – 1991	<i>Journal of Applied Psychology</i>
1988 – present	<i>Human Performance</i>

#### **GRANTS, FELLOWSHIPS AND CONTRACTS**

Development of a Deterrence Framework: Social Science Contributions. Defense Threat Reduction Agency, 2008, \$153,000

Linking UK Content Expertise with Computer-Based Analysis for Prediction of Individual and Group-Related Activities. Office of Naval Research. 2008-2011, co-PI, \$525,000

Evaluation of Light-based System for Disabling Target Individuals. ARL-Intelligent Optical Systems, Torrence, CA, 2007-2008 - \$13,000

Evaluation of Methods for Drawing Inferences About Non-State Actors' Perceptions of the Risks and Benefits of Seeking and Acquiring WMD, Defense Threat Reduction Agency, 2007, \$113,000

Applications of "Psychology of Terrorism" Studies to Combating Nuclear Weapons Acquisition and Use. Defense Threat Reduction Agency, 2007, \$50,000

Anomalous Behavior Detection. Office of Naval Research, 2005-2008, co-PI, \$225,000

Study to Quantify the Benefits and Costs of Simulated versus Live-Fire Training at USMC Ranges, US Marine Corps Systems Command, 2006-2008, \$584,213

Evaluate Recruiting Efficiency, US Marine Corps Recruiting Command, 2001-2003, \$368,750

Validation of FACTOR 1000 for pre-employment applications, Performance Factors, 1995, \$10,664

Assessing Pre-Employment Alcohol Testing, American Trucking Association, Summer, 1994, \$5,000

Assessing the Performance of Surface Warfare Officers, U.S. Army Research Office, TCN 93-453, 1993, \$15,798.

ASEE/U.S. Navy Sabbatical Fellowship, Navy Personnel Research and Development Center, Winter, 1992.

Effects of employee drug testing on work attitudes and behaviors, NIDA Grant 1R01DA005814-011989, \$84,037. Reprinted in Moore, P. (1990). Models for success: A look at grant-winning proposals. Alexandria, VA. Capitol Publications.

Officer Career Model Development, U. S. Army Research Office, DO 1664 1989, \$10,013.

Dimensions of Job Performance. U.S. Army Research Office, TCN 86-145, 1986, \$36,108

ASEE/U.S. Navy Faculty Fellowship, Navy Personnel Research and Development Center, Summer 1985.

Spencer Foundation Grant to Young Scholars, September 1981

Fulbright-Hays grant for study in Sweden, September 1977

#### **PROFESSIONAL ASSOCIATIONS**

Fellow, American Psychological Association

Fellow, Society for Industrial and Organizational Psychology (Div. 14, APA)

Fellow, Division on Evaluation, Measurement and Statistics (Div. 5, APA)

Charter Fellow, Association for Psychological Science

Member, International Association for Applied Psychology

#### **PROFESSIONAL AWARDS, OFFICES AND BOARDS**

President, Society for Industrial and Organizational Psychology (1997)

Council of Editors, American Psychological Association (1996-present)

Representative to APA Council (Div. 14) (2000-2003)

Distinguished Scientific Contribution Award, Society for Industrial and Organizational Psychology (2004)

Member, Conference Review Committee, Science Directorate, American Psychological Association (2004 – 2006)

Chair, Committee on Scientific Awards, American Psychological Association (Member 2006 – 2007, Chair 2008-2009)

Member, Board of Scientific Affairs, American Psychological Association (2009)

#### **REVIEW PANELS AND BOARDS**

Member, National Academy of Sciences Committee on Performance Appraisal (1990-91)

Member, National Academy of Sciences Committee on Drug Use in the Workplace (1991-93)

Chair, Department of Defense Advisory Committee on Military Personnel Testing (member 1991-95, Chair 1995-1998)

Member, National Research Council Roundtable on Work, Learning and Assessment (1997-98)

Member, National Academy of Sciences Committee to Review the Scientific Evidence on the Polygraph (2001-2003)

Program reviewer for National Science Foundation, Economic and Social Research Council, Department of Homeland Security (2008- present)

Member, Appeals and Complaints Committee, Manufacturing Skills and Standards Council (2011 – present)

## **COURSES TAUGHT**

### Graduate

Multivariate Statistics,  
Personnel Psychology,  
Person Perception,  
Job Analysis and Performance Appraisal,  
Introduction to Psychological Testing,  
Assessment in Organizations,  
Introduction to Statistics I and II,  
  
Industrial/Organizational Psychology,  
Factor Analysis,  
Human Resource Management,  
Fairness in Personnel Administration,  
Counterproductive Behavior in  
Organizations,  
Research Methods

### Undergraduate

Psychological Testing,  
Basic Statistics,  
Advanced Managerial Psychology,  
General Psychology,  
Organizational Psychology,  
Industrial/Organizational Psychology,  
Personnel Selection in Business and the Public  
Sector,  
Honesty in the Workplace

## **PUBLICATIONS**

### **BOOKS**

- Murphy, K., & Davidshofer, C. (1988). *Psychological testing: Principles and applications*. Englewood Cliffs, NJ: Prentice Hall.
- Murphy, K., & Saal, F. E. (1990). *Psychology in organizations: Integrating science and practice*. Hillsdale, NJ: Erlbaum.
- Murphy, K., & Cleveland, J. (1991). *Performance appraisal: An organizational perspective*. Boston: Allyn & Bacon.
- Murphy, K., & Davidshofer, C. (1991). *Psychological testing: Principles and applications* (2nd Ed). Englewood Cliffs, NJ: Prentice Hall.
- Murphy, K. (1993). *Honesty in the workplace*. Monterey, CA: Brooks/Cole.
- Murphy, K., & Davidshofer, C. (1994). *Psychological testing: Principles and applications* (3rd Ed). Englewood Cliffs, NJ: Prentice Hall.
- Murphy, K. & Cleveland, J. (1995). *Understanding performance appraisal: Social, organizational and goal-oriented perspectives*. Newbury Park, CA: Sage.
- Murphy, K. (1996). *Individual differences and behavior in organizations*. San Francisco: Jossey-Bass.



- Murphy, K., & Davidshofer, C. (1998). *Psychological testing: Principles and applications* (4th Ed). Englewood Cliffs, NJ: Prentice Hall.
- Murphy, K. & Myers, B. (1998). *Statistical power analysis: A simple and general model for traditional and modern hypothesis tests*. Mahwah, NJ: Erlbaum.
- Cleveland, J., Stockdale, M & Murphy, K (2000). *Women and men in organizations*. Mahwah, NJ: Erlbaum.
- Murphy, K., & Davidshofer, C. (2001). *Psychological testing: Principles and applications* (5th Ed). Englewood Cliffs, NJ: Prentice Hall.
- Murphy, K. (2003). *Validity generalization: A critical review*. Mahwah, NJ: Erlbaum.
- Murphy, K. & Myers, B. (2003). *Statistical power analysis: A simple and general model for traditional and modern hypothesis tests* (2nd Ed). Mahwah, NJ: Erlbaum.
- Murphy, K., & Davidshofer, C. (2005). *Psychological testing: Principles and applications* (6th Ed). Upper Saddle River, NJ: Prentice Hall.
- Murphy, K. (2006). *A Critique of Emotional Intelligence: What are the Problems and How Can They be Fixed?* Mahwah, NJ: Erlbaum.
- Murphy, K., Myers, B. & Wolach, A. (2009). *Statistical power analysis: A simple and general model for traditional and modern hypothesis tests* (3rd Ed). Mahwah, NJ: Erlbaum.
- Putka, D. & Murphy, K. (In preparation). *Reliability and Measurement Error: An Integrated Perspective for Organizational Research and Practice*. New York: Taylor & Francis.

#### **CONTRIBUTING AUTHOR**

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- O'Brien, C. & Normand, J. (1994). *Under the influence? Drug use and the American work force*. Washington, DC: National Academy Press.
- National Research Council (2003). *The polygraph and lie detection*. Washington, DC: National Academy Press.

#### **ARTICLES**

- Landy, F., Barnes, J., & Murphy, K. (1978). Correlates of perceived fairness and accuracy of performance evaluation. *Journal of Applied Psychology*, 63, 751-754. Reprinted in K. Bradley (1994), *The International Library of Management*. Aldershot, England: Dartmouth.

- Murphy, K. (1979). Comment of Pugh's method and model for assessing environmental effect. *Organizational Behavior and Human Performance*, 23, 56-59.
- Nystedt, L., & Murphy, K. (1979). Some conditions affecting the utility of subjectively weighted models in decision making. *Perceptual and Motor Skills*, 49, 583-590.
- Murphy, K. (1982). Difficulties in the statistical control of halo. *Journal of Applied Psychology*, 67, 161-164.
- Murphy, K., Garcia, M., Kerkar, S., Martin, C., & Balzer, W. (1982). The relationship between observational accuracy and accuracy in evaluating performance. *Journal of Applied Psychology*, 67, 320-325. Reprinted in K. Bradley (1994), *The International Library of Management*. Aldershot, England: Dartmouth.
- Lane, D., Murphy, K., & Marques, T. (1982). Measuring cue importance in policy capturing. *Organizational Behavior and Human Performance*, 30, 231-240.
- Murphy, K. (1982). Assessing the discriminant validity of regression models and subjectively weighted models of judgments. *Multivariate Behavioral Research*, 17, 354-370.
- Murphy, K., Martin, C., & Garcia, M. (1982). Do behavioral observation scales measure observation? *Journal of Applied Psychology*, 67, 562-567.
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- Murphy, K., Balzer, W., Lockhart, M., & Eisenman, E. (1985). Effects of previous performance on evaluations of present performance. *Journal of Applied Psychology*, 70, 72-84.
- Banks, C., & Murphy, K. (1985). Toward narrowing the research-practice gap in performance appraisal. *Personnel Psychology*, 38, 335-345. Reprinted in Landy, F. (1986). *Readings in Industrial and Organizational Psychology*. Homewood, IL: Dorsey Press.; Reprinted in Baird, L., Beatty, R., Beccia, P., & Schneier, C. (1986). *The Performance Management Sourcebook*. Amherst, MA; *Human Resource Development and Performance* (1986). Emerson, NJ: KEND Publishing; K. Bradley (1994), *The International Library of Management*. Aldershot, England: Dartmouth.

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- Murphy, K., Thornton, G. C. III, & Prue, K. (1991). The influence of job characteristics on the acceptability of employee drug testing. *Journal of Applied Psychology*, 76, 447-453.
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- Murphy, K., Philbin, T., & Adams, S. (1989). Effect of purpose of observation on accuracy of immediate and delayed performance ratings. *Organizational Behavior and Human Decision Processes*, 43, 336-354.
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- Murphy, K. (1989). Maybe we should shoot ourselves in the foot: A reply to Manhardt. *The Industrial Psychologist*, 26(3), 45-46.
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- Murphy, K., Osten, K. & Myers, B. (1995). Modeling the effects of banding in personnel selection. *Personnel Psychology*, 48, 61-84.
- Murphy, K. & Myers, B. (1995). Evaluating the logical critique of banding. *Human Performance*, 8, 191-201.
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- Slater, M., Karan, D., Rouner, D., Murphy, K. & Beauvais, F. (1998). Developing and assessing alcohol warning content: responses to quantitative information and behavioral recommendations in warnings with TV beer ads. *Journal of Public Policy and Marketing*, 17, 48-60.
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- Cleveland, J.N., Gunnigle, P., Hearty, N., Morley, M. & Murphy, K. (2000). Human resource management practices of U.S.-owned multinational corporations in Europe: Accommodation or imposition ? *Irish Business Administrative Research*, 21, 9-28.
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#### **COMMISSIONED PAPERS**

Murphy, K. & Byrne, Z. (2000). Applications of Structured Assessment in the IT Workforce. Commissioned  
by Workforce Needs in Information Technology Committee, National Research Council.

#### **PRESENTATIONS, REVIEWS AND INVITED CONTRIBUTIONS – Available on request**

#### **WORKSHOPS AND CONSORTIA**

- 2007 Communication Strategies in the Age of Terrorism, Prague Security Studies Institute. Prague, Czech Republic.
- 2006 Interdisciplinary research. SIOP Annual Conference. Dallas.
- 2005 Evaluating the performance of workers and organizations. 6<sup>th</sup> Australian Industrial and Organizational Psychology Conference. Brisbane, Australia. (Murphy, K & Cleveland, J.)
- 2000 Publishing without perishing. Academy of Management, Human Resource Management Division, Doctoral Student and Junior Faculty Consortium. Toronto, Canada.
- Unraveling the mysteries of the publication process. SIOP Doctoral Consortium. New Orleans.
- 1997 De-mystifying statistics: Getting a handle on recent advances in statistics and data analysis. Personnel Testing Council of Southern California, Los Angeles.
- 1995 Goal-oriented performance appraisal. IOOB Graduate Student Conference. Denver.
- Perils of publishing. SIOP Doctoral Consortium. Orlando.
- Improving performance appraisal: Designing, implementing and evaluating goal-oriented performance appraisal systems. Sydney, Australia. Inaugural Australian Industrial and Organisational Psychology Conference (Murphy, K. & Cleveland, J.)
- 1994 De-mystifying statistics: Getting a handle on recent advances in statistics and data analysis. SIOP workshop. Nashville.

- 1992 De-mystifying statistics: Getting a handle on recent advances in statistics and data analysis. SIOP workshop. St. Louis.
- Goal-directed performance appraisal. Pretoria, South Africa.
- 1992 Statistics update. SIOP workshop. April, Miami.
- 1989 The context of performance appraisal. Academy of Management Doctoral Consortium. August, Washington, D. C. (Murphy, K. & Cleveland, J.)
- Statistics Update. APA workshop. August. New Orleans.
- 1987 Performance appraisal. SIOP Doctoral Consortium. August, Washington, D.C. (Murphy, K. & Cleveland, J.)

#### **INVITED LECTURES AND DEBATES**

- 2011 The Seduction of Simplicity: The Downside of Studying Personnel Selection without Applicants or Organizations. Patricia Cain Smith and Robert M. Guion Distinguished Lecture, Bowling Green State University.
- Content validity is not what it appears. Texas A&M University.
- 2007 Getting into the minds of terrorists. Worldwide Universities Network Virtual Seminar Series; National Responses to Terrorism. Webcast 9/10/07.
- 2006 Power analysis for traditional and modern hypothesis tests. Center for the Advancement of Research Methods and Analysis, Richmond Va., Center for Advanced Research Methods and Analysis (CARMA) Webcast, 4/28/06.
- 2005 Distinguished Scientific Contributions Award Address : Performance Appraisal Isn't Performance Measurement: Why Poor Workers Receive Good Ratings. Annual SIOP Conference. Los Angeles.
- Integrity and recruitment. Presented at International Training Centre, International Labor Organization. Turin, Italy.
- Industrial and organizational psychology's biggest hits and biggest misses. Opening Keynote Address. 6<sup>th</sup> Australian Industrial and Organizational Psychology Conference. Brisbane, Australia.
- 2003 Testing the hypothesis that something important has happened. Distinguished Lecture Series in honor of J.S. Coon Rededication of School of Psychology, Georgia Institute of Technology.
- 2000 Participant in "Millennial Debate on 'g' : An Invited Debate". Annual Conference of SIOP. New Orleans

1999 Honesty in the workplace. SHL South Africa. Pretoria, South Africa.

Benefits and pitfalls of structured assessment programs in organizations. SHL/UMIST Workshop on Psychological Interventions and Organizational Effectiveness. Manchester, UK.

1998 Visiting Professors' Seminar Series, College of Business, University of Limerick, Limerick Ireland.

#### **EXPERT TESTIMONY**

1. Duane V. Michaels v. Cooley Gravel Co. - 2/86 - 11/86: Wrongful termination, age discrimination alleged. Provided depositions and testimony for defendant
2. Ronald Johns et. al., v. Civil service Commission et. al. 2/90 - 6/90: biased promotion process Alleged (Case 90 CV3591, District Court of City & County of Denver). Provided depositions and testimony for plaintiff
2. Lillard v. Ponds et. al., (File #2783) 4/91 - 8/91: wrongful termination alleged. Provided depositions for defendant.
3. Rodriguez et al. v. Denver Sheriff's Department et al. (Civil Action 92-N-2335): challenge to consent decree. Provided depositions for defendant.
4. Hsu v. Wyoming Department of Transportation (Civil No. 93-CV-134-J): racial and/or gender bias in promotion alleged. Provided depositions for plaintiffs.
5. Anderson et al. v. Ore-Ida Foods and H.J. Heinz Co. (December 1993): age discrimination in reduction-in-force decisions alleged. Provided depositions and testimony for plaintiffs
6. Jiron v. Jacor Broadcasting (Civil Action No. 94-M-1483): racial discrimination in pay and/or promotion alleged. Provided depositions and testimony for plaintiff.
7. Herman, et al., v. Westinghouse Electric Corporation (No. MJG-93-285): age discrimination in reduction-in-force decisions alleged. Provided depositions for defendant
8. United States of America v. City of Torrance et al [No. 93-4142 MRP (GHKx) (C.D. Cal.)]. Racial discrimination in hiring alleged. Provided depositions and testimony for the plaintiff.
9. O'Kelley v. Rice et al., (Pulaski Circuit No. 95-6210): use of improper promotion policies Alleged. Provided depositions and testimony for defendant.
10. Gerald M. Billouin et al., v. Monsanto Company and Chevron Chemical Company (No. 4-94-CV-1152 GFG): Age discrimination in termination decisions alleged. Provided depositions for defendant.

11. Bobbie Lee Wade v. Continental Airlines, Inc. (Civil Action No. 96-WY-1948-WD; U.S. District Court): Age, race, or gender discrimination in hiring decision alleged. Provided depositions for defendant.

12. Moore et al., v. Norfolk Southern Corporation. (Civil Action CV-93-C-0133-S; U.S. District Court). race discrimination in hiring alleged. Provided depositions and testimony for plaintiff.

13. Lopez v. City of Aurora (Civil Action No. 97CV330, District Court, County of Arapahoe, State of Colorado). Wrongful termination alleged. Provided testimony for defendant.

14. Equal Employment Opportunity Commission v. McDonnell Douglas Corporation (No. 95CV01414 SNL; U.S. District Court, Eastern District of Missouri). Age discrimination in layoff alleged. Provided depositions for defendant.

15. Manual Viarrial v. Coors Brewing Company and Betty Beck (U.S. District Court, CV No. 97-Z-1827). Racial discrimination in promotion alleged. Provided reports and deposition testimony for plaintiff.

16. OFCCP v. Ford Motor Company (Case 97-ofc-8: U.S. Department of Labor Office of Administrative Law Judges). Gender discrimination in hiring alleged. Provided depositions and testimony for plaintiff.

17. United States of America v. City of Buffalo (73-CV-414C). assessment of police selection test and validity study. Provided depositions and testimony for defendant.

18. Dukes et al., v. Wal-Mart Stores Inc. (C-01-2252-MJJ) - gender discrimination alleged. Provided deposition testimony for defendant.

19. MOCHA Society et al., v. City of Buffalo et al (98-CV-099C (M)) racial discrimination alleged. Provided deposition testimony and trial for plaintiff.

20. Lemley v. Philips Electronics (Civil Action 00-C-64) gender discrimination alleged. Provided deposition testimony for plaintiff.

21. Hopkins v. First American (Civil No. 08-08CV-669-L) age discrimination alleged. Provided deposition testimony for defendant.

22. Cicairos, et al., v. Summit Logistics, Inc. (Case No. CV014837). Superior Court of the State of California. Wage and hour violations alleged. Provided deposition testimony for plaintiff.

23. Brennen v. QWEST (Civil File No. 07-cv-020204 ADM/JSM). United States District Court, State of Minnesota. Unfair compensation alleged. Provided Deposition Testimony for Defendant.

24. Whitacker et al., v. 3M Company (Court File 62-C4-04-012239). Second Judicial District, State of Minnesota, County of Ramsey. Age discrimination alleged. Provided testimony at deposition and in hearings for Defendant



25. Denise Manzanares Grievance hearing (No. 13-01-10 - FL 8298 AAA # 77 300 00381 10). Denver, Colorado. Validity of a classification test is challenged. Provided testimony for Plaintiff.

26. Anderson, et al., v. Arne Duncan, U.S. Department of Education, Civil Action No. 06-1565 (RMC). United States District Court for the District of Columbia. Age and disability bias alleged in reduction in force. Provided deposition testimony for defendant.

## Appendix C - Background Check Levels Required

Description	Level of Test	Included in Level
Administrative Assistant	1	Personal (SSN verification) and Criminal
Administrator	1	Personal (SSN verification) and Criminal
Apprentice	1	Personal (SSN verification) and Criminal
Art Director	1	Personal (SSN verification) and Criminal
Art Worker	1	Personal (SSN verification) and Criminal
Associate Producer	1	Personal (SSN verification) and Criminal
Audio Engineer	1	Personal (SSN verification) and Criminal
Audio Specialist	1	Personal (SSN verification) and Criminal
Audio Technician	1	Personal (SSN verification) and Criminal
Audio Visual Coordinator	1	Personal (SSN verification) and Criminal
Audio Visual Technician	1	Personal (SSN verification) and Criminal
Benefits Administrator	1	Personal (SSN verification) and Criminal
Business Center Representative	1	Personal (SSN verification) and Criminal
CADD Designer	1	Personal (SSN verification) and Criminal
CADD Drafter	1	Personal (SSN verification) and Criminal
CADD Specialist	1	Personal (SSN verification) and Criminal
Camera Operator	1	Personal (SSN verification) and Criminal
Carpenter	1	Personal (SSN verification) and Criminal
Carpentry Manager	1	Personal (SSN verification) and Criminal
Carpentry Supervisor	1	Personal (SSN verification) and Criminal
Carpet Lead	1	Personal (SSN verification) and Criminal
Carpet Manager	1	Personal (SSN verification) and Criminal
Carpet Supervisor	1	Personal (SSN verification) and Criminal
Carpet Worker	1	Personal (SSN verification) and Criminal
Cleaner	1	Personal (SSN verification) and Criminal
Cleaning Supervisor	1	Personal (SSN verification) and Criminal
Communications Coordinator	1	Personal (SSN verification) and Criminal
Computer Operator - Graphics	1	Personal (SSN verification) and Criminal
Coordinator	1	Personal (SSN verification) and Criminal
Courier	1	Personal (SSN verification) and Criminal
Creative Services Manager	1	Personal (SSN verification) and Criminal
Custodian	1	Personal (SSN verification) and Criminal
Data Entry Clerk	1	Personal (SSN verification) and Criminal
Designer	1	Personal (SSN verification) and Criminal
Detailer	1	Personal (SSN verification) and Criminal
Dispatcher	1	Personal (SSN verification) and Criminal
Drafter	1	Personal (SSN verification) and Criminal
Drapery Manager	1	Personal (SSN verification) and Criminal
Drapery Supervisor	1	Personal (SSN verification) and Criminal
Driver	1	Personal (SSN verification) and Criminal
Electrician	1	Personal (SSN verification) and Criminal

Executive Assistant	1	Personal (SSN verification) and Criminal
Exhibit Systems Lead	1	Personal (SSN verification) and Criminal
Exhibit Systems Manager	1	Personal (SSN verification) and Criminal
Exhibit Systems Supervisor	1	Personal (SSN verification) and Criminal
Facility Worker	1	Personal (SSN verification) and Criminal
Field Representative	1	Personal (SSN verification) and Criminal
Floor Coordinator	1	Personal (SSN verification) and Criminal
Forklift Operator	1	Personal (SSN verification) and Criminal
Freight Coordinator	1	Personal (SSN verification) and Criminal
Graphics Applicator	1	Personal (SSN verification) and Criminal
Graphics Artist	1	Personal (SSN verification) and Criminal
Graphics Designer	1	Personal (SSN verification) and Criminal
Graphics Layout Operator	1	Personal (SSN verification) and Criminal
Graphics Manager	1	Personal (SSN verification) and Criminal
Graphics Supervisor	1	Personal (SSN verification) and Criminal
Graphics Worker	1	Personal (SSN verification) and Criminal
Help Desk Tech	1	Personal (SSN verification) and Criminal
HR Generalist	1	Personal (SSN verification) and Criminal
I&D Field Representative	1	Personal (SSN verification) and Criminal
I&D Installation Technician	1	Personal (SSN verification) and Criminal
I&D Planner/Coordinator	1	Personal (SSN verification) and Criminal
Information Systems Coordinator	1	Personal (SSN verification) and Criminal
Installation Technician	1	Personal (SSN verification) and Criminal
Intern	1	Personal (SSN verification) and Criminal
Inventory Control Processor	1	Personal (SSN verification) and Criminal
Inventory Control Supervisor	1	Personal (SSN verification) and Criminal
Ironworker	1	Personal (SSN verification) and Criminal
Journeyman	1	Personal (SSN verification) and Criminal
Labor Coordinator	1	Personal (SSN verification) and Criminal
Laborer	1	Personal (SSN verification) and Criminal
Laminator	1	Personal (SSN verification) and Criminal
Lead Clerk	1	Personal (SSN verification) and Criminal
Lead Welder	1	Personal (SSN verification) and Criminal
Lighting Director	1	Personal (SSN verification) and Criminal
Lighting Specialist	1	Personal (SSN verification) and Criminal
Machine Operator	1	Personal (SSN verification) and Criminal
Maintenance Worker	1	Personal (SSN verification) and Criminal
Marketing Associate	1	Personal (SSN verification) and Criminal
Marshalling Yard Supervisor	1	Personal (SSN verification) and Criminal
Material Handler	1	Personal (SSN verification) and Criminal
Mechanic	1	Personal (SSN verification) and Criminal
Mechanic Apprentice	1	Personal (SSN verification) and Criminal
Mechanic Helper	1	Personal (SSN verification) and Criminal
Media Specialist	1	Personal (SSN verification) and Criminal
Office Clerk	1	Personal (SSN verification) and Criminal

Packer	1	Personal (SSN verification) and Criminal
Painter	1	Personal (SSN verification) and Criminal
PC Technician	1	Personal (SSN verification) and Criminal
Photographer	1	Personal (SSN verification) and Criminal
Planner/Coordinator	1	Personal (SSN verification) and Criminal
Pre Press Operator	1	Personal (SSN verification) and Criminal
Producer	1	Personal (SSN verification) and Criminal
Production Artist	1	Personal (SSN verification) and Criminal
Production Coordinator	1	Personal (SSN verification) and Criminal
Programmer	1	Personal (SSN verification) and Criminal
Project Administrator	1	Personal (SSN verification) and Criminal
Project Coordinator	1	Personal (SSN verification) and Criminal
Project Manager	1	Personal (SSN verification) and Criminal
Projectionist	1	Personal (SSN verification) and Criminal
Prop Production Worker	1	Personal (SSN verification) and Criminal
Quality Control Technician	1	Personal (SSN verification) and Criminal
Receptionist	1	Personal (SSN verification) and Criminal
Recruiter	1	Personal (SSN verification) and Criminal
Repair Technician	1	Personal (SSN verification) and Criminal
Rigger	1	Personal (SSN verification) and Criminal
Safety Coordinator	1	Personal (SSN verification) and Criminal
Safety Director	1	Personal (SSN verification) and Criminal
Safety Manager	1	Personal (SSN verification) and Criminal
Seamstress	1	Personal (SSN verification) and Criminal
Secretary	1	Personal (SSN verification) and Criminal
Senior Designer	1	Personal (SSN verification) and Criminal
Shipping & Receiving Supervisor	1	Personal (SSN verification) and Criminal
Show Coordinator	1	Personal (SSN verification) and Criminal
Show Services Specialist	1	Personal (SSN verification) and Criminal
Show Specialist	1	Personal (SSN verification) and Criminal
Silk Screener	1	Personal (SSN verification) and Criminal
Specialist	1	Personal (SSN verification) and Criminal
SR Computer Specialist	1	Personal (SSN verification) and Criminal
SR Computer Technician	1	Personal (SSN verification) and Criminal
SR Coordinator	1	Personal (SSN verification) and Criminal
SR Show Specialist	1	Personal (SSN verification) and Criminal
SR Technician	1	Personal (SSN verification) and Criminal
Stagehand	1	Personal (SSN verification) and Criminal
Supervisor	1	Personal (SSN verification) and Criminal
Teamster	1	Personal (SSN verification) and Criminal
Technician	1	Personal (SSN verification) and Criminal
Telecommunications Specialist	1	Personal (SSN verification) and Criminal
Telemarketer	1	Personal (SSN verification) and Criminal
Trade Show Supervisor	1	Personal (SSN verification) and Criminal
Trainer	1	Personal (SSN verification) and Criminal

Training Director	1	Personal (SSN verification) and Criminal
Video Engineer	1	Personal (SSN verification) and Criminal
Video Specialist	1	Personal (SSN verification) and Criminal
Video Technician	1	Personal (SSN verification) and Criminal
Warehouse Lead	1	Personal (SSN verification) and Criminal
Warehouse Manager	1	Personal (SSN verification) and Criminal
Warehouse Operations Manager	1	Personal (SSN verification) and Criminal
Warehouse Supervisor	1	Personal (SSN verification) and Criminal
Warehouse Worker	1	Personal (SSN verification) and Criminal
Webmaster	1	Personal (SSN verification) and Criminal
Welder	1	Personal (SSN verification) and Criminal
Worker	1	Personal (SSN verification) and Criminal
Account Coordinator	2	Personal (SSN verification), Criminal and Credit
Account Executive	2	Personal (SSN verification), Criminal and Credit
Account Manager	2	Personal (SSN verification), Criminal and Credit
Accountant	2	Personal (SSN verification), Criminal and Credit
Accounting Clerk	2	Personal (SSN verification), Criminal and Credit
Accounting Clerk	2	Personal (SSN verification), Criminal and Credit
Accounting Supervisor	2	Personal (SSN verification), Criminal and Credit
Analyst	2	Personal (SSN verification), Criminal and Credit
Application Developer	2	Personal (SSN verification), Criminal and Credit
Assistant Director Exhibitor Sales	2	Personal (SSN verification), Criminal and Credit
Assistant Director of Audio Visual - Hotel Services	2	Personal (SSN verification), Criminal and Credit
Assistant Manager	2	Personal (SSN verification), Criminal and Credit
Assistant Operations Manager	2	Personal (SSN verification), Criminal and Credit
Assistant Treasurer	2	Personal (SSN verification), Criminal and Credit
Associate	2	Personal (SSN verification), Criminal and Credit
Business Center Manager	2	Personal (SSN verification), Criminal and Credit
Claims Manager	2	Personal (SSN verification), Criminal and Credit
Collection Associate	2	Personal (SSN verification), Criminal and Credit
Controller	2	Personal (SSN verification), Criminal and Credit
Database Administrator	2	Personal (SSN verification), Criminal and Credit
Director of Audio Visual Hotel Services	2	Personal (SSN verification), Criminal and Credit
Equipment Planning & Procurement Manager	2	Personal (SSN verification), Criminal and Credit
Equipment Planning & Procurement Supervisor	2	Personal (SSN verification), Criminal and Credit
Estimator	2	Personal (SSN verification), Criminal and Credit
Exhibit Fabricator	2	Personal (SSN verification), Criminal and Credit
Exhibitor Sales Representative	2	Personal (SSN verification), Criminal and Credit
Exhibitor Services Representative	2	Personal (SSN verification), Criminal and Credit

Exhibitor Services Specialist	2	Personal (SSN verification), Criminal and Credit
Exhibitor Services Supervisor	2	Personal (SSN verification), Criminal and Credit
Facility Manager	2	Personal (SSN verification), Criminal and Credit
Field Representative Supervisor	2	Personal (SSN verification), Criminal and Credit
Field Supervisor	2	Personal (SSN verification), Criminal and Credit
Freeman Transportation Representative	2	Personal (SSN verification), Criminal and Credit
Freight Manager	2	Personal (SSN verification), Criminal and Credit
Freight Operations Manager	2	Personal (SSN verification), Criminal and Credit
Freight Operations Supervisor	2	Personal (SSN verification), Criminal and Credit
Freight Supervisor	2	Personal (SSN verification), Criminal and Credit
I&D Assistant Manager	2	Personal (SSN verification), Criminal and Credit
I&D Manager	2	Personal (SSN verification), Criminal and Credit
Information Systems Manager	2	Personal (SSN verification), Criminal and Credit
Information Technology Specialist	2	Personal (SSN verification), Criminal and Credit
Information Technology Technician	2	Personal (SSN verification), Criminal and Credit
Network Engineer	2	Personal (SSN verification), Criminal and Credit
New Gen Furniture Manager	2	Personal (SSN verification), Criminal and Credit
New Gen Furniture Supervisor	2	Personal (SSN verification), Criminal and Credit
Office Manager	2	Personal (SSN verification), Criminal and Credit
Operations Manager	2	Personal (SSN verification), Criminal and Credit
Operations Supervisor	2	Personal (SSN verification), Criminal and Credit
Operations Trainee	2	Personal (SSN verification), Criminal and Credit
Production Manager	2	Personal (SSN verification), Criminal and Credit
Production Supervisor	2	Personal (SSN verification), Criminal and Credit
Purchasing Agent	2	Personal (SSN verification), Criminal and Credit
Purchasing Manager	2	Personal (SSN verification), Criminal and Credit
Regional Director	2	Personal (SSN verification), Criminal and Credit
Representative	2	Personal (SSN verification), Criminal and Credit
Sales Manager	2	Personal (SSN verification), Criminal and Credit
Sales Representative	2	Personal (SSN verification), Criminal and Credit
Sales Trainee	2	Personal (SSN verification), Criminal and Credit
Show Site Operations Manager	2	Personal (SSN verification), Criminal and Credit
Software Developer	2	Personal (SSN verification), Criminal and Credit
SR Exhibitor Services Representative	2	Personal (SSN verification), Criminal and Credit
Systems Administrator	2	Personal (SSN verification), Criminal and Credit
Systems Analyst	2	Personal (SSN verification), Criminal and Credit
Systems Engineer	2	Personal (SSN verification), Criminal and Credit
Transportation Manager	2	Personal (SSN verification), Criminal and Credit
Assistant Director	3	Personal (SSN verification), Criminal, Credit and Education

Assistant General Manager	3	Personal (SSN verification), Criminal, Credit and Education
Chairman	3	Personal (SSN verification), Criminal, Credit and Education
Chief Executive Officer	3	Personal (SSN verification), Criminal, Credit and Education
Chief Financial Officer	3	Personal (SSN verification), Criminal, Credit and Education

Chief Information Officer	3	Personal (SSN verification), Criminal, Credit and Education
Chief Marketing Officer	3	Personal (SSN verification), Criminal, Credit and Education
Chief Operating Officer	3	Personal (SSN verification), Criminal, Credit and Education
Chief People Officer	3	Personal (SSN verification), Criminal, Credit and Education
Director	3	Personal (SSN verification), Criminal, Credit and Education
Director of Exhibitor Sales	3	Personal (SSN verification), Criminal, Credit and Education
Director of Exhibitor Services	3	Personal (SSN verification), Criminal, Credit and Education
Director of Freight Operations	3	Personal (SSN verification), Criminal, Credit and Education
Director of Hotel Services	3	Personal (SSN verification), Criminal, Credit and Education
Director of Marketing	3	Personal (SSN verification), Criminal, Credit and Education
Director of Operations	3	Personal (SSN verification), Criminal, Credit and Education
Executive Vice President	3	Personal (SSN verification), Criminal, Credit and Education
General Manager	3	Personal (SSN verification), Criminal, Credit and Education
National Account Manager	3	Personal (SSN verification), Criminal, Credit and Education
National Sales Director	3	Personal (SSN verification), Criminal, Credit and Education
National Sales Manager	3	Personal (SSN verification), Criminal, Credit and Education
President	3	Personal (SSN verification), Criminal, Credit and Education
Regional Vice President	3	Personal (SSN verification), Criminal, Credit and Education
Senior Vice President	3	Personal (SSN verification), Criminal, Credit and Education
SR Vice President	3	Personal (SSN verification), Criminal, Credit and Education
Vice Chairman	3	Personal (SSN verification), Criminal, Credit and Education
Vice President	3	Personal (SSN verification), Criminal, Credit and Education
Vice President Corporate Sales	3	Personal (SSN verification), Criminal, Credit and Education



Vice President Finance	3	Personal (SSN verification), Criminal, Credit and Education
Vice President Information Services	3	Personal (SSN verification), Criminal, Credit and Education
Vice President National Association Sales	3	Personal (SSN verification), Criminal, Credit and Education
Vice President of Exposition Sales	3	Personal (SSN verification), Criminal, Credit and Education
Vice President Purchases	3	Personal (SSN verification), Criminal, Credit and Education
Vice President Treasurer	3	Personal (SSN verification), Criminal, Credit and Education